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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,398	01/08/2001	Junming Le	0975.1005-006	7001

21005 7590 01/13/2003

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EXAMINER

CANELLA, KAREN A

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 01/13/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/756,398

Applicant(s)  
Le et al

Examiner  
Karen Canella

Art Unit  
1642



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 months MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-14, 16-19, and 21-23 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-14, 16-19, and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 9, 11 6) ☐ Other:

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***Response to Amendment***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.
2. Claims 3, 15 and 20 have been canceled. Claims 1, 2, 4-14, 16-19 and 21-23 are pending and under consideration.
3. The rejection of claims 1, 2, 4-14, 16-19 and 21-23 under 35 U.S.C. 103(a) as being unpatentable over any of Rathjen et al (US 5,959,087) or Yone et al (US 5,075,236) or Moeller et al (US 5,231,024) or Hirai et al (J or Immunological Methods, 1987, Vol. 96, pp. 57-62) or Fendly et al (Hybridoma, 1987, Vol. 6, pp. 359-370) or Meager et al (Hybridoma, 1987, Vol. 6, pp. 305-310) or Liang et al (Biochemical and biophysical Research Communications, 1986, Vol. 137, pp. 847-854) or Bringman et al (Hybridoma, 1987, vol. 6, pp. 489-507) or Exley et al (Lancet, 1990, Vol. 335, pp. 1275-1277) or Yan et al (Chinese Journal of biotechnology, 1991, Vol. 7, pp. 121-126) all in view of Cabilly et al (US 4,816,567) is withdrawn in light of applicants amendments and arguments.
4. Claims 1, 2, 4-14, 16-19 and 21-23 are rejected under the judicially created doctrine of double patenting over claims 1-4 of U. S. Patent No. 6,277,969 for reasons of record. Applicant

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argues that as claims 1-9 were not rejected, it was inconsistent to reject claims 10-23. It is noted that the previous action contained a typographical error, incorrectly rejecting only claims 10-23.

*Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Canella whose telephone number is (703) 308-8362. The examiner can normally be reached on Monday through Friday from 8:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on (703) 308-3995. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

  
(Karen A. Canella, Ph.D.)

Patent Examiner, Group 1642

January 13, 2003